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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WEALTH TAX APPEAL (L) No. 556 OF 2004

The Commissioner of Wealth Tax ... Appellant

Versus

M/s. Zenith Tin Works Ltd. ... Respondents

Mr. Ashok Kotangale i/by Pankaj Kapoor for Appellant.

Ms. Vasanti R. Patel for Respondents.

CORAM: F.I. REBELLO &
J.P.DEVADHAR, JJ.
DATED: JULY 25, 2007

P.C.:

. The matter taken up for hearing and heard forthwith. The following two questions have been framed :

(a) Whether on the facts and in he circumstances of the case in the law, the Hon'ble Tribunal is correct in allowing the appeal of the assessee, and deleting the addition to the taxable wealth of the assessee as made by the assessing officer?

(b) Whether on the facts and circumstances of the case and in law, the Hon'ble Tribunal erred in allowing the debt of Rs.2,78,82,595/- as claimed by the assessee for the net taxable wealth of the

assessee?

. We have considered the order of the tribunal. We find that in so far as question (a) is concerned, Considering the orders of this court the tribunal has restored the issue to the file of A.O. In other words the matter is pending before the A.O. The question of law therefore, would not arise.

. In so far a question (b) is concerned, we find that the tribunal has recorded a finding of fact that the department had accepted the issue answering that the assessment years 1990-91 and 1992-93. The tribunal had given a right to the department in case statement made was erroneous to apply for recalling of the order. Such application was not made. In other words, the department it appears had accepted the orders for the assessment years 1990-91 and 1991-92. Considering the above,in our opinion, there is no merit in this appeal which is accordingly disposed of.

(J.P.DEVADHAR, J.) **(F.I.REBELLO, J.)**